

221448



Mack H Shumate, Jr
Senior General Attorney, Law Department

ENTERED
Office of Proceedings

JAN 28 2008

Part of
Public Record

January 28, 2008

FEE RECEIVED

JAN 28 2007

**SURFACE
TRANSPORTATION BOARD**

VIA E-Filing

Mr. Vernon Williams, Secretary
Surface Transportation Board
Section of Environmental Analysis
1925 "K" St., N W., Room 504
Washington, DC 20423-0001

**Re: Proposed Abandonment of the Port Arthur Industrial Lead from M. P. 2.00
to M. P. 3.21 near Port Arthur, Jefferson County, Texas;
STB Docket No. AB-33 (Sub-No. 245X)**

Dear Mr. Williams:

Pursuant to the Board's exemption procedures for abandonment of rail lines with no local business for at least two years, (49 C.F.R. 1152.50), enclosed are an original and ten (10) copies of a verified Notice of Exemption, including a Certificate of Service and Publication.

Please file the Notice of Exemption in Docket No. AB-33 (Sub-No. 245X)
Enclosed is a credit authorization voucher in the amount of \$3,200.00 for the filing fee.

Sincerely yours,

Mack H Shumate, Jr.

Enclosures

O:\Abandonments\33-245X\STB-Not-Ltr.doc

FILED

JAN 28 2007

**SURFACE
TRANSPORTATION BOARD**

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 245X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN JEFFERSON COUNTY, TEXAS
(PORT ARTHUR INDUSTRIAL LEAD)**

NOTICE OF EXEMPTION

UNION PACIFIC RAILROAD COMPANY

**Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX**

**Dated: January 28, 2008
Filed: January 29, 2008**

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 246X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN JEFFERSON COUNTY, TEXAS
(PORT ARTHUR INDUSTRIAL LEAD)

NOTICE OF EXEMPTION

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 § C.F.R. 1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, for an exempt abandonment of the Port Arthur Industrial Lead from Milepost 2.00 to Milepost 3.21 near Port Arthur, a distance of 1.21 miles in Jefferson County, Texas (the "Line").

Proposed Consummation Date: 49 C.F.R. § 1152.50 (d)(2)

The abandonment is proposed to be consummated on or after March 19, 2008 (at least 50 days after filing the Notice of Exemption).

Certification: 49 C.F.R. 1152.50(b)

UP certifies that no local traffic has moved over the Line for at least two years, and that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line either is pending with this Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period. UP further certifies that there is no overhead traffic on the Line.

Additional Information Required: 49 C.F.R. 1152.22(a)(1), (4), (7)-(8) and (e)(4)

(a) **General.**

(a)(1) The railroads' exact name is Union Pacific Railroad Company.

(a)(2) UP is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(a)(3) UP intends to abandon the Line from Milepost 2.00 to Milepost 3.21 near Port Arthur, a distance of 1.21 miles. The Line is located in Jefferson County, Texas. UP initially intended to propose a 1.51 mile abandonment beginning at milepost 1.70, which was illustrated on the map originally sent to the agencies. UP subsequently determined to reduce the abandonment by 0.30 miles, and the beginning point reflected throughout the Combined Environmental and Historic Report is milepost 2.0.

(a)(4) A map showing the location of the Line in conjunction with other rail lines, highways and major roads in the area is attached hereto as **Exhibit A** and hereby made a part hereof.

(a)(5) The representative to whom correspondence regarding this abandonment should be sent is:

Mack H. Shumate, Jr., Senior General Attorney
Union Pacific Railroad Company
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

(a)(6) **ZIP Code.** The Line traverses U. S. Postal Service Zip Codes 77640.

(e)(4) **Rural and Community Impact.** The Line was originally constructed in 1907 by the Texas & New Orleans Railroad. Except for some 110-pound jointed rail near the east end of the proposed abandonment, the Line was laid with 136-

pound rail, much of which has been substantially removed. There are a total of 22.6 acres of property of which 1.8 acres is reversionary title.

After abandonment, the closest rail lines will be the remainder of the Port Arthur Industrial Lead and a Kansas City Southern Railway Company line that crosses the Line. BNSF Railway and Norfolk Southern Railway Company also have access to Port Arthur. Significant highways serving Port Arthur include Texas Route 73, an east-west route, and U. S. 69/287, a north-south route. Port Arthur is also provided with various water transportation alternatives.

There are no shippers on the Line, and no commodities have originated or terminated on the Line for over two years. There is no overhead traffic over the Line. No complaints regarding cessation of service have been filed or are pending at the Board and no such complaints have been decided in favor of a complainant in the past two years.

The property proposed for abandonment is not suitable for public purposes such as roads, highways, or other forms of mass transportation, conservation, energy production or transmissions, or recreation because there is a fully developed grid of public streets surrounding the right-of-way and no additional streets are needed.

Based on information in the UP's possession, the Line proposed for abandonment does not contain federally granted right-of-way. There will be no effect on regional or local transportation systems and patterns and no diversion of traffic to other transportation systems or modes.

Any documentation so related to the Line, including real estate documentation relating to the Line in UP's possession, will be made available to those requesting it.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen , 360 ICC 91 (1979).

Certifications

Attached hereto as **Exhibit B** and hereby made a part hereof is a Certificate of Service and Publication pursuant to the notice requirements of 49 C F R. §§ 1152.50(d)(1), 1105.11 and 1105.12.

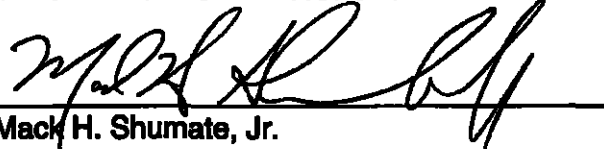
Environmental and Historic Report

A copy of the Transmittal Letter of UP's Combined Environmental and Historic Report containing the information required by 49 C.F.R. §§ 1105.7 (e) and 1105.8, and delivered in accordance with 49 C.F.R. 1105.11, is attached hereto as **Exhibit C** and hereby made a part hereof. The original and ten (10) copies were sent to Ms. Victoria Rutson, Section of Environmental Analysis (SEA), on November 13, 2007. There are no structures fifty (50) years in age affected by this proposed abandonment. The State Historic Preservation Officer by stamped letter dated October 26, 2006, concurred that no historic properties were affected by the proposed abandonment and that the project could proceed. A copy of this letter was included with the UP Combined Environmental and Historic Report filed on November 14, 2007.

Dated this 28th day of January, 2008.

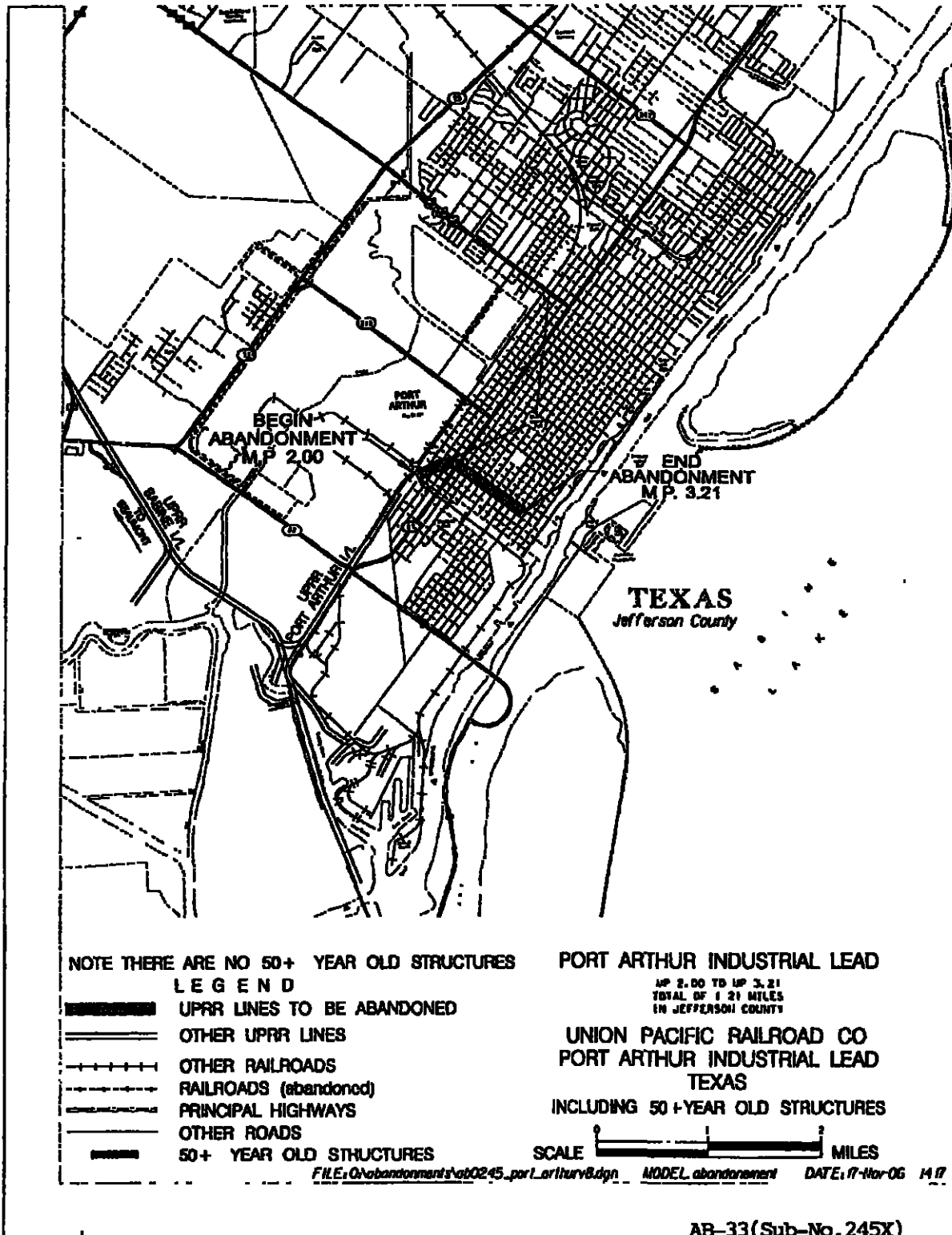
Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

A handwritten signature in black ink, appearing to read 'Mack H. Shumate, Jr.', is written over a horizontal line.

Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

EXHIBIT A



DOCKET NO. AB-33 (SUB-NO. 245X)
Port Arthur Industrial Lead in Jefferson County, Texas

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on December 11, 2007 (at least 10 days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to abandon and discontinue service on the Port Arthur Industrial Lead from M. P. 2.00 to M. P. 3.21 near Port Arthur, a distance of 1.21 miles in Port Arthur, Jefferson County, Texas in Docket No. AB-33 (Sub-No. 245X).

Written notice (a copy of which is attached hereto as Attachment 1) was served on the following:

Public Utility Commission
of Texas
1701 North Congress Avenue
PO Box 13326
Austin, Texas 78711-3326

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor, N.W., Auditors Building
14th Street & Independence Ave., SW
Washington, DC 20250

National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80228

Department of Defense
Military Traffic Management Command
Transportation Engr Agency
Railroads for National Defense Program
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

49 C.F.R. § 1105.11 -

The undersigned certifies that on November 13, 2007 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served in Docket No. AB-33 (Sub-No. 245X) for

abandonment and discontinuance of the Port Arthur Industrial Lead in Jefferson
County, Texas on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) State Coastal Zone Management Agency
- (4) Head of each County
- (5) U.S. Environmental Protection Agency (regional office)
- (6) U.S. Fish and Wildlife Service
- (7) U.S. Army Corps of Engineers
- (8) National Park Service
- (9) U.S. Natural Resources Conservation Service
- (10) The National Geodetic Survey
- (11) State Historic Preservation Office
- (12) Other Agencies Consulted (as listed)

(The Certificate of Service attached to the Combined Environmental and Historic Report lists the names and addresses of the federal, state and local agencies served.

49 C.F.R. § 1105.12 - Newspaper Notice

The undersigned further certifies that a "Notice of Intent to Abandon was published in the form prescribed by the Board for a Notice of Exemption. The notice was published one time in a major newspaper in the county in which the Line is located as follows

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Jefferson	<i>Beaumont Enterprise</i>	December 28, 2007

Dated this 28th day of January, 2008.

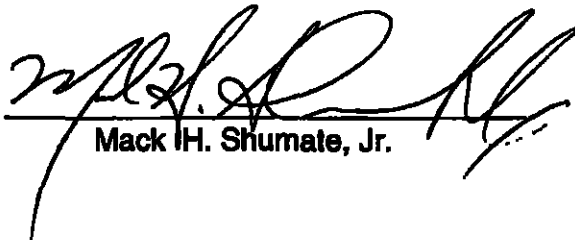

Mack H. Shumate, Jr.

EXHIBIT C

FILE
Mack H. Shumate, Jr.
Senior General Attorney, Law Department



November 13, 2007

VIA UPS OVERNIGHT

Surface Transportation Board
Section of Environmental Analysis
395 E Street, S.W., Room 1149
Washington, DC 200024

Attention: Victoria Rutson

**Re: Proposed Abandonment of the Port Arthur Industrial Lead from M. P. 1.70 to
M. P. 3.21 near Port Arthur, Jefferson County, Texas;
STB Docket No. AB-33 (Sub-No. 245X)**

Dear Ms. Rutson:

Enclosed for filing in the above-referenced docket are the original and ten (10) copies of a Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing an Application for Abandonment in this matter on or after December 4, 2007.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.".

Mack H. Shumate, Jr.

Enclosures

O:\ABANDONMENTS\33-245X\EHRLetter.doc